

FILED IN THE  
U.S. DISTRICT COURT  
EASTERN DISTRICT OF WASHINGTON

**Dec 06, 2024**

SEAN F. MCAVOY, CLERK

UNITED STATES DISTRICT COURT

EASTERN DISTRICT OF WASHINGTON

ALLSTATE VEHICLE AND PROPERTY  
INSURANCE COMPANY,

Plaintiff,

vs.

JEREMY RICHARDSON, individually and  
as Guardian of D.R., a minor; ANDY  
LOUIE and CHERYL LOUIE, a married  
couple, each individually and their marital  
community comprised thereof,

Defendants.

No. 4:24-CV-00308-MKD

ORDER DENYING STIPULATION  
OF PARTIAL DISMISSAL OF D.R.

**ECF No. 25**

Before the Court is parties' Stipulation of Partial Dismissal of D.R. ECF No. 25. Pursuant to Fed. R. Civ. P. 41(a)(1)(A), a plaintiff may dismiss an action without court order by filing: (i) a notice of dismissal before the opposing party serves either an answer or a motion for summary judgment; or (ii) a stipulation of dismissal signed by all parties who have appeared. *See also Van Leeuwen v. Bank of Am., N.A.*, 304 F.R.D. 691, 697 (D. Utah 2015) ( "Rule 41(a) 'allow[s] the dismissal of *all* claims against *one* defendant, so that a defendant may be dismissed

1 from the entire action[.]” (quoting *Hells Canyon Pres. Council v. United States*  
2 *Forest Serv.*, 403 F.3d 683, 687 (9th Cir.2005)). Under LCivR 41(a)(1)(A), a  
3 voluntary dismissal under Fed. R. Civ. P. 41(a)(1) must also “contain a statement  
4 that no answer or motion for summary judgment has been served.”

5 Plaintiff’s Voluntary Dismissal does not contain a statement regarding  
6 whether an answer or motion for summary judgment has been served. *See* ECF  
7 No. 25 at 1. An Answer was filed in this case on October 10, 2024, by Defendant  
8 Richardson. Thus, Plaintiff cannot dismiss this action under Fed. R. Civ. P.  
9 41(a)(1)(A)(i).

10 Further, the dismissal is not signed by all parties who have appeared.  
11 Specifically, the dismissal has not been signed by Defendant Andy Louie who  
12 appeared *pro se* at the scheduling conference on November 21, 2024.<sup>1</sup> Therefore,  
13 it does not meet the requirements of Fed. R. Civ. P. 41(a)(1)(A)(ii).

14 Accordingly, **IT IS ORDERED:**

15 1. Plaintiff’s Voluntary Dismissal, ECF No. 25, is **DENIED with**  
16 **to leave to refile** in compliance with Fed. R. Civ. P. 41(a)(1)(A)(ii) or (a)(2).

17 **IT IS SO ORDERED.** The District Court Executive is directed to file this  
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19 <sup>1</sup> The other *pro se* Defendant in this case, Cheryl Louie, has not yet made an  
20 appearance.

1 Order, provide copies to counsel.

2 DATED December 6, 2024.

3 s/Mary K. Dimke  
4 MARY K. DIMKE  
5 UNITED STATES DISTRICT JUDGE  
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